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Applicant.

**ORDER DENYING  
APPLICATION TO REINSTATE  
LAPSED LICENSE AND  
NOTICE OF HEARING**

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WHEREAS, Marsha Schmidt, (“Licensee”), was licensed to practice as a registered nurse in the State of South Dakota and held License number R031331; and

WHEREAS, on or about October 23, 2007, the Licensee, having let her license lapse, completed an application to reinstate her lapsed license with the Board; and

WHEREAS, as part of that process, the Licensee provided court documents which indicated a criminal indictment against her; and

WHEREAS, a review of the South Dakota Unified Judicial System report indicated that the Licensee, on or about November 29, 2017, pled guilty to a felony for unauthorized ingestion of a schedule I or II substance, and to a DUI second, receiving a suspended imposition of sentence with conditions and probation; and

WHEREAS, on or about December 3, 2017, Board staff attempted to contact Licensee by U.S. Mail with no response. They also attempted to contact her via phone. Licensee did not have any valid phone numbers. Despite numerous attempts, the Board was unable to make contact with the Licensee. Licensee has had no attempt to contact the Board.

WHEREAS, based upon the affidavit of Francie Miller and the above stated conduct, the Board has concluded that Licensee's new felony conviction along with Licensee's actions constitute unprofessional conduct and require emergency action, in that Licensee's actions may endanger the health and safety of those who are or will be entrusted to her care in the future; and

WHEREAS, the Board, has a statutory obligation to protect the health, safety and welfare set forth in SDCL §36-9, including the protection of the public from unsafe nursing practices and practitioners.

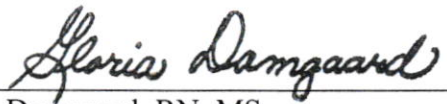
NOW THEREFORE IT IS HEREBY ORDERED:

1. That the Board has jurisdiction of the Licensee and the subject matter of this Order.
2. That based on the above, the Board specifically finds that Licensee's new felony conviction along with the actions of the Licensee endanger the public health, safety and welfare, and imperatively require emergency action in that Licensee may endanger the health and safety of those persons who are or will be entrusted to her care in the future and that these are matters of a nature that would constitute further grounds for discipline of the Licensee to practice nursing pursuant to SDCL § 36-9-49 (2) and (10).
3. Based upon these findings, Licensee's application for reinstatement of lapsed license is hereby denied.
4. This action is reportable discipline and will be published in the Board's newsletter and posted on its website and reported into the National Practitioner Data Bank (NPDB) as required by law.

The South Board of Nursing met on the 8<sup>th</sup> day of February, 2018, and approved the action of denying application to reinstate lapsed license by a vote of 8-0, and issues its Order consistent herein as follows:

IT IS HEREBY ORDERED that the above is adopted as an Order of the South Dakota Board of Nursing this 5<sup>th</sup> day of march, 2018.

SOUTH DAKOTA BOARD OF NURSING

  
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Gloria Damgaard, RN, MS  
Executive Director

#### NOTICE OF HEARING

The South Dakota Board of Nursing ("Board") pursuant to SDCL §§ 1-26-16, 1-26-27, and 1-26-29, hereby provides this Notice of Hearing to Marsha Schmidt, RN, License No. R031331 ("Licensee") as follows:

1. Hearing on the Order Denying Application to Reinstate Lapsed License will take place before the Board on April 20, 2018, at 9:00 A.m. at the office of the South Dakota Board of Nursing, 4305 S. Louise Avenue, Suite 201, Sioux Falls, South Dakota.
2. This matter is an adversarial proceeding and Licensee has the right to be present at the hearing and to be represented by an attorney. These due process rights will be forfeited if they are not exercised at the hearing.

3. The hearing will address the Board's assertion, as set forth in its Order Denying Application to Reinstate Lapsed License, that the Licensee, by her conduct, violated SDCL §§ 36-9-49 (2) and (10).

4. At the hearing, the Board will determine whether the Licensee's application for reinstatement of lapsed license should be denied.

5. Applicant has a right to request that the agency use the Office of Hearing Examiners for this proceeding by giving notice of the request to the Board no later than ten (10) days after the service of this Notice of Hearing on Order Denying Application to Reinstate Lapsed License.

6. A decision issued by the Board after the hearing may be appealed to the circuit court and to the state Supreme Court as provided by law.

Dated this 5<sup>th</sup> day of March, 2018.

SOUTH DAKOTA BOARD OF NURSING



Gloria Damgaard, RN, MS  
Executive Director